

## **PROCEDURES FOR AMENDMENTS TO THE BUILDING ZONE MAP OF THE CITY OF WILMINGTON, DELAWARE**

The following describes the procedure and approximate timetable to follow when applying for the rezoning of land located in the City of Wilmington.

### **A. Pre-Application Conference**

It is recommended that the applicant meet with the staff of the Department of Planning before submitting a rezoning application, in order to review and discuss the procedures and to allow the Department of Planning to make a preliminary analysis of the proposal.

### **B. Application for Amendment to the Building Zone Map (Rezoning)**

#### **1. Applicant Letter**

The applicant must submit an application in letter form to the City Clerk of Wilmington requesting a rezoning. The information that this letter must contain is listed in the attached application outline. One (1) original and four (4) copies of the application must be submitted, each accompanied by a copy of that part of the Building Zone Map to which the application pertains, indicating the location of the property to be rezoned. The section of the map submitted should not exceed 8.5 x 14 inches. (A copy of the zoning map may be purchased in the Office of the Clerk of Council for the sum of \$7.00. A copy of the zoning code may be purchased in the Office of the Clerk of Council for the sum of \$15.00). One copy of a detailed plan of the area proposed for rezoning, at a scale no smaller than 1:1250, also must be submitted.

#### **2. Application Processing**

- a. The applicant must submit the application to the City Clerk, accompanied by the items listed above. The fees for a rezoning are as follows:
  - For rezoning to a single-family residential classification (R-1, R-2, R-3): \$150.00.
  - For rezoning to any other zoning classification: \$250.00, plus \$20.00 per acre for any area in excess of five (5) acres.
- b. The application is referred by the City Clerk to the City Council Member representing the affected district, for submission to City Council.

- c. The application is referred by motion of Council to the Planning Department to be scheduled on City Planning Commission's agenda.
- d. The Planning Department will publish a notice of public hearing before the City Planning Commission in the classified section of the local newspaper, at least seven days prior to the public hearing date.
- e. The applicant is notified by the Planning Department of the public hearing date and time.
- f. The Planning Department sends notices of the public hearing, as a courtesy, to readily identifiable owners of adjacent properties, to neighboring civic associations, and to Neighborhood Planning Councils (NPCs).
- g. The Planning Department prepares and submits an analysis of the proposed zoning change to the City Planning Commission prior to its meeting.

### **3. Planning Commission Public Hearing**

- a. The Planning Commission generally meets on the third (3rd) Tuesday of each month at 6:30 p.m. in the City Council Chambers. Public hearings are held at the beginning of the Commission meeting.
- b. Public Hearing Order of Business
  - (1) Opening remarks by Chair.
  - (2) Planning Department's presentation.
  - (3) Applicant's presentation (if desired by applicant).
  - (4) Public comment by proponents of the change.
  - (5) Public comment by opponents of the change.
  - (6) Questions by Commission members.

### **4. Public Hearing Procedures**

- a. Those who wish to speak must be recognized by the Chair, come forward and state their name and address for the record. Speakers are usually not sworn in, but may be at the discretion of the Commission.
- b. Copies of any exhibits referred to by speakers must be provided, before or during the meeting, for inclusion in the record.

## **5. Planning Commission Review and Action**

- a. The rezoning application, the Planning Department analysis, and the public hearing testimony are reviewed during the regular meeting of the Planning Commission, held immediately after the Public Hearing.
- b. By resolution, the Commission comments on the relationship of the proposed change to the Comprehensive Development Plan of the City, and recommends that City Council either approve or deny the proposal.
- c. The Planning Department submits the Planning Commission's recommendation to the City Clerk's Office and to the Law Department for transmittal to the City Council. The maps must be provided, as well as the legal descriptions of the properties proposed to be rezoned, if not already provided.

## **6. City Council – Ordinance Introduction**

- a. An ordinance implementing the recommended zoning change is drafted by the Law Department, is introduced at City Council by the district Council Member, and receives first and second readings, and is referenced to the appropriate City Council Committee for review.
- b. City Council, by resolution, sets a date for a public hearing. This is usually done at the same meeting at which the ordinance is introduced. The date must be coordinated with the Sponsor, the City Clerk, Planning Department staff and the City Solicitor.
- c. The City Clerk's Office publishes notice of the public hearing before City Council in the local newspaper at least 15 days prior to the public hearing date.

## **7. City Council Committee Review**

- a. At the City Council Committee meeting, a Planning Department representative presents a summary of the rezoning proposal and provides an overview of the Planning Commission's recommendation and the Planning Department's Analysis.
- b. The Committee must vote to submit the ordinance for consideration by the entire body of City Council. This vote requires the concurrence of a majority of the members in attendance. The Committee cannot negate

the requirements for Planning Commission and City Council Public Hearings.

#### **8. Council Action/Public Hearing**

- a. The public hearing is held by City Council during the legislative business portion of its meeting. Proponents and opponents may testify during the public hearing.
- b. Council votes by roll call on the third and final reading of the ordinance. This may be done at the same Council meeting at which the public hearing is held, or the vote may be deferred.

#### **9. Approval by Mayor**

Following Council vote, the ordinance is submitted to the Mayor, normally the next day. The Mayor may approve the ordinance by signing it whereupon it becomes law; veto the ordinance by returning it to City Council with a statement of reasons for doing so; or allow the ordinance to become law without his signature. The Mayor has 10 days after he receives the ordinance to take one of these actions. If the Mayor vetoes the ordinance, the City Council has 15 days from receiving the disapproval from the Mayor to override the veto by a two-thirds majority vote (at least 9 of the 13 members including the President).

#### **PLEASE NOTE:**

The approximate time for completion of a rezoning action, from the date of submission of the application to the conclusion of Council action, is normally 90 to 120 days; in complex or controversial cases, a longer period may be required.

## **DEPARTMENT OF PLANNING STAFF CONTACT**

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## **SAMPLE APPLICATION LETTER**

City Clerk  
Ninth Floor  
Louis L. Redding City/County Building  
800 North French Street  
Wilmington, DE 19801

Dear Sir/Madam:

**RE: Application for Rezoning of 18 North Amber Street and 22 North Amber Street, Wilmington, Delaware**

This application is submitted in accordance with the rules and regulations of the City Planning Commission for amendment of the Building Zone Map of the City of Wilmington.

1. The Petitioner is Jane Smith of 4 North Wilmington Street, Wilmington, Delaware, 19800. Petitioner wishes that questions concerning this application be directed to her attorney, William J. Doe, Jr., of 2 Green Street, Wilmington, Delaware, 19800, whose telephone number is 941-9414.
2. The present zoning classification of the properties to be rezoned is R-4. This application is for a change in the zoning classification to C-5.
3. The properties to be rezoned are 18 North Amber Street and 22 North Amber Street. Descriptions of the parcels are attached as Exhibits "A" and "B."
4. The petitioner is the legal owner of the subject properties. The properties were acquired originally by the petitioner and her husband, John Smith, who thereafter died leaving the petitioner as sole owner as surviving tenant by the entirety.
5. The property at 18 North Amber Street is presently used as an automobile body and paint shop and has been so used since 1965. The house on the property at 22 North Amber Street is boarded up. The present use of a portion of the premises subject to this application constitutes a lawful nonconforming use registered with the Zoning Manager of the City of Wilmington.
6. The use of a portion of the premises subject to this application as an automobile body, paint, and frame shop is not a permitted one under the present zoning classification of R-4 and the present non-conforming use is subject to eventual termination under applicable provisions of the City Zoning Code. It is proposed that the vacant house at 22 North Amber Street be demolished and that an addition to the automobile body, paint and frame shop be erected.
7. It is suggested that the area covered by this petition and areas immediately adjoining have lost their identity as residential and are more suited to commercial use. Accordingly, the petitioner suggests that the rezoning sought by this application is justified under Section

48-3 of the Wilmington Zoning Code, one of the aims of which is to conserve the value of buildings and protect the tax base by encouraging the most appropriate use of land throughout the City.

8. The present use of a portion of the premises can continue as nonconforming for some years to come. However, under the Wilmington Zoning Code the alteration of, or addition to, buildings in which the nonconforming use is carried on, is severely limited. The proposed new addition is necessary if the body, paint and frame shop is to continue to operate at the present location.

A check in the amount of \$250.00 and one copy of the Building Zone Map, on which the location of the subject property is shown, are enclosed. Please advise if anything further is required before processing this application.

Respectfully submitted,

Jane M. Smith  
Petitioner

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William J. Doe, Jr.  
Attorney for Petitioner  
2 Green Street  
Wilmington, DE 19800